



15:11:21 1 THE CLERK: Court calls: A 18-CR-0410, United  
15:11:25 2 States vs. Defendant 17, Carlos Alberto Zamudio, for  
15:11:29 3 sentencing.

15:11:30 4 MR. GARDNER: Good afternoon, your Honor.  
15:11:31 5 Doug Gardner for United states.

15:11:33 6 THE COURT: Mr. Gardner.

15:11:33 7 MR. ARANA: Victor Arana on behalf of Mr.  
15:11:36 8 Zamudio.

15:11:36 9 THE COURT: Good afternoon, Mr. Arana.  
15:11:38 10 And you are Carlos Alberto Zamudio, Jr.?

15:11:43 11 THE DEFENDANT: Yes, sir.

15:11:44 12 THE COURT: You know we were set for 3:00 today,  
15:11:46 13 sir.

15:11:46 14 THE DEFENDANT: Yes, sir. I apologize.

15:11:49 15 THE COURT: All right. You had one place to be  
15:11:51 16 today. And it shows me that maybe you're not taking this  
15:11:55 17 as seriously as you should.

15:11:56 18 THE DEFENDANT: No, sir. I am. I thought I was  
15:11:58 19 supposed to be here at 2:30.

15:12:00 20 THE COURT: So you thought you were here early?

15:12:05 21 THE DEFENDANT: Yeah, I was.

15:12:06 22 THE COURT: Okay. All right. I'm sure Mr. Arana  
15:12:09 23 told you 3:30, if I know him.

15:12:13 24 MR. ARANA: Probably, your Honor. I apologize.

15:12:13 25 THE COURT: Not at all.

15:12:19 1 Mr. Zamudio, I know that you understand that the  
15:12:20 2 purpose of this hearing today is to impose a sentence in  
15:12:26 3 your case. In a few moments, I'll give you the  
15:12:28 4 opportunity to say anything that you'd like to say before  
15:12:30 5 I impose your sentence; however, before we do that, I need  
15:12:34 6 to ask you a few questions.

15:12:36 7 First of all, do you believe that before today,  
15:12:39 8 you've had a sufficient opportunity to confer with Mr.  
15:12:42 9 Arana to prepare for this hearing today?

15:12:44 10 THE DEFENDANT: Absolutely, sir. Yes.

15:12:48 11 THE COURT: During your conversations with him,  
15:12:49 12 did he go over with you the presentence investigation  
15:12:50 13 report that the probation office prepared in your case?  
15:12:53 14 And did he talk to you about the federal sentencing  
15:12:57 15 guidelines and how those have been applied in your case?

15:12:59 16 THE DEFENDANT: Yes, sir, many times.

15:13:00 17 THE COURT: All right. Mr. Arana, do you believe  
15:13:03 18 that you've had a sufficient opportunity with your client  
15:13:06 19 to prepare for this case today?

15:13:09 20 MR. ARANA: Yes, sir.

15:13:09 21 THE COURT: And during your discussions with him,  
15:13:11 22 did you talk to him in detail about the presentence  
15:13:16 23 investigation report? And did you explain to him how the  
15:13:23 24 federal sentencing guidelines operate and how they were  
15:13:25 25 applied in his case?

15:13:26 1 MR. ARANA: Yes, sir.

15:13:27 2 THE COURT: Do you have any objections to the  
15:13:28 3 report itself? I know initially, you did have one  
15:13:30 4 objection?

15:13:31 5 MR. ARANA: We filed an objection, but we chose  
15:13:34 6 to withdraw it. Or we choose to withdraw it.

15:13:36 7 THE COURT: Okay. Very good.

15:13:37 8 Mr. Gardner, are there any objections from the  
15:13:39 9 government?

15:13:40 10 MR. GARDNER: There are none, your Honor.

15:13:41 11 THE COURT: Without objection, then I will adopt  
15:13:43 12 the findings of the presentence investigation report and  
15:13:45 13 make them a part of the record for purposes of this  
15:13:47 14 hearing.

15:13:49 15 Mr. Zamudio, what I want to do now is to talk to  
15:13:52 16 you about the range of punishment that you're facing  
15:13:55 17 today, the maximum possible punishment that you're facing,  
15:14:01 18 then what the federal sentencing guidelines are  
15:14:04 19 recommending in your case. And then, finally, we'll talk  
15:14:06 20 about the plea agreement in your case.

15:14:09 21 For the offense of conspiring to possess with  
15:14:12 22 intent to distribute cocaine, to which you've pled guilty,  
15:14:16 23 there is a maximum possible term of imprisonment of 20  
15:14:19 24 years, followed by a term of supervised release of at  
15:14:23 25 least three years, and that term could be up to life.

15:14:27 1 There's a potential fine in this case of up to \$1 million,  
15:14:31 2 in addition to a \$100 mandatory special assessment under  
15:14:34 3 the Victims of Crimes Act.

15:14:37 4 Do you understand what the maximum possible  
15:14:40 5 punishment is today?

15:14:41 6 THE DEFENDANT: Yes, sir.

15:14:41 7 THE COURT: Okay. Now, the federal sentencing  
15:14:45 8 guidelines were applied in your case. The offense level  
15:14:47 9 was found to be level 21 and your Criminal History  
15:14:51 10 Category, a level I. As a result, the guidelines  
15:14:55 11 recommend that I sentence you to a term of custody of  
15:14:57 12 between 37 and 46 months, followed by a term of supervised  
15:15:02 13 release of three years. The guidelines recommend a fine  
15:15:06 14 of at least \$15,000, in addition to that \$100 mandatory  
15:15:10 15 special assessment.

15:15:13 16 Do you understand what the federal sentencing  
15:15:16 17 guidelines have recommended in your case?

15:15:17 18 THE DEFENDANT: Yes, sir.

15:15:18 19 THE COURT: Okay. All right. Mr. Arana, is  
15:15:23 20 there anything you'd like to say on behalf of your client  
15:15:26 21 at this time?

15:15:27 22 MR. ARANA: Yes, sir.

15:15:27 23 And just to start off, I may have told Carlos  
15:15:30 24 3:30. Every time that he's met with me, he's been  
15:15:33 25 punctual and I've never had a problem with that. I had a

15:15:36 1 hectic week. I don't have a secretary, so if he thought  
15:15:39 2 3:30, I'm sure that he would have got that from me and I  
15:15:42 3 apologize.

15:15:42 4 THE COURT: That's what I thought, too.

15:15:43 5 MR. ARANA: So again, in terms of punishment and  
15:15:45 6 looking at the case, Mr. Zamudio or Carlos is almost 50  
15:15:51 7 years old. I think he's 47 or 48 years old with no  
15:15:54 8 criminal history. And in this case, you know, I was  
15:15:58 9 really impacted by the fact that he dabbled in it and he  
15:16:01 10 shouldn't have. But it appears that he voluntarily  
15:16:04 11 assisted in doing that sometime before he was arrested,  
15:16:07 12 and then, he was arrested.

15:16:08 13 So I think that the transaction that we're  
15:16:11 14 looking at is, I think, March of 2018. And then, I think  
15:16:14 15 the indictments came down December, or something like  
15:16:17 16 that, and then, he was arrested in January.

15:16:19 17 So I think he's in a bit different position than  
15:16:22 18 somebody who is still active and then, you know, when they  
15:16:25 19 search their house, they find stuff, and they're sort of  
15:16:28 20 stopped by the police versus stopping themselves. And  
15:16:32 21 then, of course, you know, he's described as a multi-ounce  
15:16:36 22 dealer. And I think ounce is key that it's much --  
15:16:39 23 obviously much lower than kilograms or anything higher  
15:16:42 24 than that. So he makes a bad decision to get in this but  
15:16:46 25 then, at some point, sort of decides that, for whatever

1 when, he doesn't want to do this. And it's not the police  
2 that help him make that decision. He makes that decision  
3 for himself.

4 And then, what's he being done since he's been on  
5 pretrial release? He's been on pretrial release for a  
6 very long time, and we haven't been before the Court on  
7 any sort of violations. And I know that being on pretrial  
8 release isn't terribly onerous. Basically just stay out  
9 of trouble and be where you're supposed to. But we do  
10 have people who get in trouble and get revoked, and he's  
11 not one of those folks.

12 And then, the other thing he did was -- and your  
13 Honor knows about our filings. I think the big impetus  
14 behind our filings was, he makes a decision that he wants  
15 to go into a certain career, and he's worried about how  
16 it's going to look to have a felony. I don't know that  
17 it's he doesn't want to take responsibility. He just  
18 wishes there was a way not to have a felony. And  
19 unfortunately, in our federal system, we don't have very  
20 robust diversion programs and things like that.

21 So I think that's what caused us to take a hard  
22 look at the evidence. And then, of course, being in my  
23 position, you know, I know that coming in here and filing  
24 a motion to withdraw your guilty plea could set off  
25 Pandora's box. So it's a tough thing to do. But I

15:17:58 1 certainly think it's a legitimate question, you know, to  
15:18:00 2 ask what was the evidence. We ask the defendants that all  
15:18:04 3 the time.

15:18:04 4 So he takes the time and he goes to school, and  
15:18:08 5 he made a significant commitment and financially and in  
15:18:10 6 terms of money in going to this IT boot camp. And I've  
15:18:14 7 heard of that IT boot camp from other places. I have  
15:18:17 8 veterans in my veterans court who do that, and it's  
15:18:20 9 apparently a very good program and they apparently -- at  
15:18:23 10 U.T. and they have a very good placement rate. And all  
15:18:26 11 the vets that I know that have gone through that have gone  
15:18:28 12 on to have good jobs. So even though it's not a four-year  
15:18:32 13 degree, or something like that, it certainly is a degree  
15:18:34 14 that's in demand and gives somebody a good job.

15:18:36 15 So with all that said, we come before the Court.  
15:18:39 16 And there's a lot of competing considerations. I mean, to  
15:18:45 17 say you just have to go on probation, maybe the feeling is  
15:18:47 18 he really didn't have to pay for what he did wrong. I  
15:18:50 19 mean, I could see that being -- you know, up until this  
15:18:53 20 point, he's basically just had to check in and to say, you  
15:18:56 21 know, you're kind of excused from it, I could see that  
15:18:58 22 being sort of an issue.

15:19:00 23 I know in the federal -- when we take probation  
15:19:03 24 in state, you know, we lump on 200 hours of community  
15:19:07 25 service. We lump on a bunch of things that keeps somebody



1 thinking about what they did for some time, and it kind of  
2 is sort of a payback for what you did.

3 I could see in this case, if the Court -- he is  
4 statutorily eligible for probation. I could see the Court  
5 imposing conditions, weekends in jail, for example, take  
6 away some of his free time for some period of time. At  
7 least if something like that was done, he wouldn't upset  
8 the sort of career he has going. I mean, he can support  
9 himself. A big purpose of going to prison is to learn a  
10 trade so that when you get out, you'll be able to support  
11 yourself. Well, he's kind of already done that for  
12 himself. But again, I could see that the Court would want  
13 to impose something to make him make up for what's  
14 happened. So that's an idea.

15 Another idea is some sort of fine that would  
16 require some periodic payments for some time so every  
17 time, you know, some percentage of his check, half, a  
18 quarter, whatever, he has to pay back in terms of a fine  
19 on a payment plan. That would also keep him thinking  
20 about what he did and make some reparation.

21 So, you know, there's several purposes of sending  
22 someone to prison. One of them is, we've just gotta get  
23 this guy off the street because he's just pure  
24 destruction. I don't see that being Carlos. I mean, he  
25 dealt for a little while, he desisted. I don't think

15:20:28 1 there's any chance that he's going to go back to doing  
15:20:31 2 that. So I don't think incapacitation rationale really  
15:20:34 3 fits. Training somebody, okay? Let's give this person  
15:20:37 4 some tools that he didn't have before so that he doesn't  
15:20:40 5 go back to crime. Those are the folks that get plumbing  
15:20:44 6 certificates, electrician certificates, barber  
15:20:46 7 certificates. But he's already got his IT, so he doesn't  
15:20:50 8 really need that.

15:20:51 9 So again, I think the only purpose in sending him  
15:20:52 10 back will be to make up for what he's done, to give him  
15:20:55 11 his penance for what he's committed, and I think that that  
15:20:59 12 can be done in a way that doesn't require incarceration.  
15:21:03 13 I certainly think that our federal probation officers are  
15:21:06 14 more than capable of supervising someone, and I wish that  
15:21:10 15 we used that option more.

15:21:12 16 So when I look at if there's ever a case of  
15:21:14 17 somebody who -- if this was a state case, I don't even  
15:21:18 18 think there would be much of a discussion. He'd be going  
15:21:20 19 on probation and he'd have conditions and five years,  
15:21:23 20 seven years, 10 years, something like that, with the  
15:21:26 21 quantity of community service hours and a fine to pay off.

15:21:30 22 Unfortunately, in our system in federal probation  
15:21:33 23 is often viewed as just a zero to three, zero to six,  
15:21:37 24 you're eligible for probation, otherwise, we're really not  
15:21:39 25 going to consider it. But I do think that in this case.

15:21:45 1 Gone a very long part of his life with no criminal  
15:21:48 2 history. Did this for a short time, voluntarily desisted  
15:21:52 3 and has some tools to be a productive citizen.

15:21:55 4 I think if there's a case that probation would be  
15:21:57 5 appropriate, I think it's this case. And that's -- I know  
15:22:02 6 it's a little bit outside of the box, but I certainly  
15:22:04 7 think it's a reasonable sentence, and that's the sentence  
15:22:07 8 that I'd ask the Court to impose.

15:22:08 9 THE COURT: Thank you very much.

15:22:10 10 Mr. Zamudio, I'll now give you the opportunity to  
15:22:13 11 say anything you would like to say. You don't have to  
15:22:15 12 speak. You can rely on the words of your lawyer. But if  
15:22:19 13 there is anything you'd like to say, I'd be happy to hear  
15:22:21 14 from you now. Feel free to take off your mask if you do  
15:22:23 15 like to speak.

15:22:24 16 THE DEFENDANT: Sir, I'm a little nervous so I  
15:22:26 17 rather just have my lawyer talk for me.

15:22:28 18 THE COURT: Sure. That's fine and that's not  
15:22:30 19 unusual. That's fine. Okay.

15:22:32 20 Anything more, Mr. Arana?

15:22:34 21 MR. ARANA: No, sir. I'd just submit the  
15:22:35 22 sentencing memorandum.

15:22:36 23 THE COURT: Yes. And I -- for the record, I did  
15:22:37 24 receive and review your sentencing memorandum. Thank you.

15:22:40 25 Mr. Gardner.

15:22:41 1 MR. GARDNER: Thank you, your Honor.

15:22:43 2 Just a few things that I'd just ask the Court  
15:22:45 3 take in consideration is, we did make a recommendation for  
15:22:48 4 not more than 24 months. That was with Mr. Young when he  
15:22:53 5 was his first attorney, and I think that kind of played,  
15:22:56 6 at least in my mind, what I felt was appropriate, given  
15:22:58 7 Mr. Zamudio's characteristics involved in this case.  
15:23:03 8 Twenty-four months was appropriate for us.

15:23:05 9 He did have an opportunity to satisfy the safety  
15:23:08 10 valve criteria but did not avail himself of that, so I'm a  
15:23:11 11 little concerned. I think that can be explained. And  
15:23:13 12 giving the benefit of the doubt to Mr. Zamudio, that was  
15:23:16 13 also in the period where he was contemplating withdrawing  
15:23:19 14 his plea. And I do recognize he doesn't have any criminal  
15:23:23 15 history, but I think those are factors the Court should  
15:23:26 16 consider.

15:23:27 17 I don't necessarily like the state argument --  
15:23:30 18 state court argument. In Williamson County, he'd probably  
15:23:34 19 get more time than he would here, which is Travis County.  
15:23:36 20 So I know the Court is very familiar with the local  
15:23:38 21 landscape of the state. I don't necessarily appreciate  
15:23:42 22 that particular viewpoint. But I will say that I did make  
15:23:47 23 a recommendation of not more than 24 months rather than  
15:23:52 24 try to get an agreement between all the parties and  
15:23:55 25 presenting 24-month sentence, if that makes sense to the

15:23:58 1 Court.

15:23:59 2 So those are just my thoughts, your Honor.

15:24:01 3 Obviously you have a range of zero to 24 months. I think  
15:24:05 4 some punishment is required just to make sure it doesn't  
15:24:09 5 happen just for impact but the other defendants in this  
15:24:12 6 case.

15:24:12 7 THE COURT: Thank you very much, Mr. Gardner.

15:24:15 8 And, Mr. Zamudio, I have reviewed information  
15:24:18 9 about your background, about your offense, and I think  
15:24:23 10 your lawyer has done a good job of summing up the  
15:24:26 11 considerations that I'm required to make in imposing a  
15:24:30 12 sentence. They are many and they serve different  
15:24:33 13 interests. One of them, though, that I do -- and I  
15:24:40 14 generally agree with his analysis, and I think punishment  
15:24:44 15 for punishment sake is not often something that I am a big  
15:24:49 16 fan of.

15:24:50 17 But there is something to the -- what Mr. Arana,  
15:24:57 18 I think, refers to as kind of paying penance, and that is  
15:25:02 19 the idea that when someone commits a criminal act -- and  
15:25:06 20 in this case, it was not an insignificant amount of  
15:25:09 21 cocaine that you personally were involved with here, that  
15:25:15 22 there is something to be said for being punished for that.  
15:25:20 23 But part of it, too, is to send a message to other people  
15:25:24 24 that there are consequences to this kind of thing and  
15:25:27 25 especially, I think, was it a kilo of cocaine that is

1 attributable to you? Now, that's a significant amount of  
2 drugs. And I think that to give you a probated sentence,  
3 frankly, would send the wrong message to folks in your  
4 position who need to know that that's a serious offense  
5 and that there are going to be serious consequences.

6 On the other hand, I do believe that the  
7 guidelines, in particular, and even the agreement that  
8 you've reached with the government do sort of go beyond  
9 what I think is necessary to send the message to you and  
10 to others that, A, this is conduct that we won't tolerate  
11 and, B, to discourage you and others from doing it in the  
12 future.

13 So I will vary from the guidelines downward. I  
14 do believe a custodial sentence is warranted in this case.  
15 I'm going to sentence you to a term of incarceration of 12  
16 months and one day. There is significance to that  
17 sentence that Mr. Arana will tell you. It's a little  
18 better than it sounds potentially because it will give you  
19 the opportunity to shorten that sentence in the right  
20 circumstances.

21 Upon release from imprisonment, I'm going to  
22 order that you be placed on supervised release for a term  
23 of three years. While you're on supervised release,  
24 you're not to commit any other federal, state or local  
25 crime. And you're to comply with the mandatory and

1 standard conditions that have been adopted by the Court,  
2 including that you submit yourself, your property, your  
3 electronic devices, your home, and your vehicle to a  
4 search by the probation office, in the event that they  
5 believe that you're in violation of any of the terms of  
6 your supervision.

7 I find that you don't have the ability to pay a  
8 fine, so I'm going to waive a fine in this case. And I  
9 will -- but I do have to order that you pay the \$100  
10 mandatory special assessment.

11 I do want to recognize the good work you've done  
12 while you're out bond. That's not for nothing. And I  
13 will tell you that had you not done so well on bond, and  
14 especially the program that you were in, and shown me that  
15 you do have the ability and the intention to get out and  
16 straighten up, your sentence, I can just tell you, would  
17 have been significantly higher. So don't think you didn't  
18 do yourself a great favor and your lawyer by pointing that  
19 out.

20 So I think that the sentence that you will serve  
21 will not set you back too much in your -- a lot of people,  
22 I worry that it's going to take them off of a track and  
23 they'll never get back on it. I don't think that's true  
24 for you. I think it's a reasonable sentence that will  
25 show you that we're serious about this, but it won't --

15:28:11 1 you won't lose hope that you're not going to be able to  
15:28:15 2 get out and get on the right track and be a productive  
15:28:18 3 citizen. I think you will.

15:28:19 4 So with that, let me tell, you, you have the  
15:28:22 5 right to appeal the sentence I've given you today. And if  
15:28:25 6 you want to appeal it, you should talk to Mr. Arana about  
15:28:28 7 how to do that and the time limits for doing it. And  
15:28:30 8 finally, I will seal this presentence investigation report  
15:28:32 9 so that it's available only in the event that you do  
15:28:34 10 appeal your sentence.

15:28:36 11 Mr. Arana, is there anything further today?

15:28:39 12 MR. ARANA: Yes, your Honor, two things. Ask  
15:28:41 13 that he be allowed to self-surrender.

15:28:43 14 THE COURT: Yes. Any objection from the  
15:28:44 15 government?

15:28:44 16 MR. GARDNER: None, your Honor.

15:28:45 17 THE COURT: Okay. Mr. Zamudio, as long as you  
15:28:52 18 can tell me that you will continue to comply with the  
15:28:55 19 conditions that you've been under and that you will show  
15:28:58 20 up when and where you're ordered to for the service for  
15:29:00 21 your sentence, I'll allow you to remain out on bond.

15:29:03 22 Will you do that?

15:29:04 23 THE DEFENDANT: Yes, sir.

15:29:04 24 THE COURT: Okay. Very good.

15:29:06 25 MR. ARANA: The only other request is a facility



15:29:08 1 close to Austin as possible for a recommendation.

15:29:10 2 THE COURT: I will make that recommendation.

15:29:11 3 Okay.

15:29:11 4 Mr. Gardner, anything further from the  
15:29:13 5 government?

15:29:13 6 MR. GARDNER: Your Honor, Mr. Zamudio's complied  
15:29:15 7 with the plea agreement. We would move to miss the  
15:29:18 8 remaining charges in this case.

15:29:18 9 THE COURT: And I'll grant that motion.

15:29:21 10 MR. GARDNER: Thank you. That's all we have.

15:29:23 11 THE COURT: Thank you. Mr. Zamudio, good luck  
15:29:24 12 and I hope we don't meet again.

15:29:27 13 THE DEFENDANT: Yes, sir. I wanted to, say, I  
15:29:29 14 apologize for the inconvenience, sir. And, of course, I  
15:29:35 15 disagree with things because I want to be a free man  
15:29:39 16 without a record. But I do appreciate you all serving the  
15:29:44 17 community and keeping our streets safe. And I want to  
15:29:46 18 thank you and Mr. Gardner.

15:29:48 19 THE COURT: Thank you, sir. Appreciate it and we  
15:29:50 20 want to welcome you back into the law-abiding community,  
15:29:53 21 okay?

15:29:54 22 THE DEFENDANT: Thank you, sir.

15:29:55 23 THE COURT: Okay. Very good. Thank you.

24 (End of proceedings.)

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\* \* \* \* \*

UNITED STATES DISTRICT COURT )  
WESTERN DISTRICT OF TEXAS )

I, LILY I. REZNIK, Certified Realtime Reporter,  
Registered Merit Reporter, in my capacity as Official  
Court Reporter of the United States District Court,  
Western District of Texas, do certify that the foregoing  
is a correct transcript from the record of proceedings in  
the above-entitled matter.

I certify that the transcript fees and format comply  
with those prescribed by the Court and Judicial Conference  
of the United States.

WITNESS MY OFFICIAL HAND this the 20th day of July,  
2021.

/s/Lily I. Reznik  
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